



# BULLETIN

## NWCC Spotlight On: Medical Services Unit Activities

***In this last of two installments spotlighting the court's Coverage and Claims section, the Bulletin focuses on the activities of the Medical Services unit.***

**D**uring fiscal year 1998, two previously existing sections, Medical Services and Compliance and Resolutions, were combined to form the Coverage and Claims section. Informal Dispute Resolution activities, which had been included in either Medical Services or Compliance since authorized by LB 757 in 1993, were expanded and transferred to the Legal section.

Section staff were placed under a single supervisor on April 1, 1998. The Medical Services unit includes a medical services specialist and an independent medical examiner representative.

... Continued on Page 2

## Workshop!

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Nebraska

September 17, 1999

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See insert for more  
information!

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## Compensation Court Approves Amended Rules of Procedure

**A**t a Public Hearing on October 27, 1998, the Nebraska Workers' Compensation Court approved amendments to a number of its Procedural Rules. These amendments, described below, are currently under review by the Supreme Court, and will not become effective until approved by that court.

- Rule 2 requires that the claimant's social security account number and the date and location of injury or alleged injury be included in a petition or initial pleading in a case without an assigned docket number.
- The title of Rule 10 is changed and the rule provides that proceedings for motions for summary judgment or other motions for judgment on the pleadings be governed by Neb. Rev. Stat. §25-1330 et seq.
- The format of Rule 18 is changed (no substantive changes).
- Rule 27 includes a method by which certain covered employers may satisfy the obligation to secure payment of compensation.
- Rule 29 requires electronic filing of first reports of alleged occupational injury beginning no later than July 1, 2000 (unless an alternative implementation plan has been approved

by the court). The rule also provides that first reports of injury in the case of death or hospitalization of five or more employees from one accident may be filed by any means necessary for timely filing.

- Rule 30 requires that a Compensation and Expense Report be filed within 14 days following payment pursuant to a final order, award, or judgment of the court including an order approving a lump sum settlement.
- In Rule 33, the requirement that a first treatment medical report be furnished to the court is eliminated.
- Rule 34, 30-Day Medical Report, is repealed.
- Rule 37 allows the court to require additional information in case closure notifications from vocational rehabilitation providers.
- Rule 39 distinguishes between vocational rehabilitation services and loss of earning power evaluations, and clarifies that vocational rehabilitation counselors are rehabilitation service providers.
- The introductory language of Rule 40 is transferred to Rule 44. Rule

... Continued on Page 7

Nebraska Workers' Compensation Court Spotlight On:

## Medical Services Unit Activities

... Continued from front page

The medical services unit is responsible for keeping the medical and hospital fee schedule up to date, certifying and monitoring managed care plans, administering the Independent Medical Examiner Program, and responding to inquiries from a variety of sources concerning these programs. The unit also responds to questions regarding the choice of physician rule and other questions that relate to medical, surgical and hospital services under the Nebraska Workers' Compensation Act. During 1998, staff members responded to over 1,370 telephone requests for information or assistance.

### Fee Schedule

In the plans for well over a year, the Schedule of Medical and Hospital Fees was totally revised in 1998. The revision was adopted following a public hearing on May 1, 1998 and applies to all payments made on and after June 15, 1998. Decisions made during the revision were aimed at making the fee schedule consistent with industry practices, obtaining and using valid data, and creating a more user-friendly schedule.

The court contracted with Medicode, a corporation engaged in the business of performing data analysis and providing consulting services using its proprietary databases, for the data necessary to calculate conversion factors. Conversion factors were calculated using the HCFA relative values and Medicode's database. Conversion factors, when combined with the relative value units, attempt to make the maximum fee schedule amount for medical services equal to the 75th percentile of Nebraska actual billed charges for those services. Data from Medicode also provided information necessary to assign relative value units to procedures not assigned relative values in the HCFA 1998 Resource-Based Relative Value Schedule (RBRVS).

The court's fee schedule also governs reimbursement for services provided by hospitals and ambulatory surgical centers. Hospital and ambulatory surgical center charges for the professional component of medical services are subject to the maximum established by the schedule of medical fees. Hospital charges for the technical component of medical services and all other charges for services provided by a hospital are subject to discount by 15 percent, 7.5 percent, or 4 percent, depending on the location of the hospital. For the first time, the revised fee schedule addresses charges from free standing ambulatory surgical centers and provides for a 4 percent discount for charges for services other than the professional component of medical services.

### Managed Care Plans For Workers' Compensation

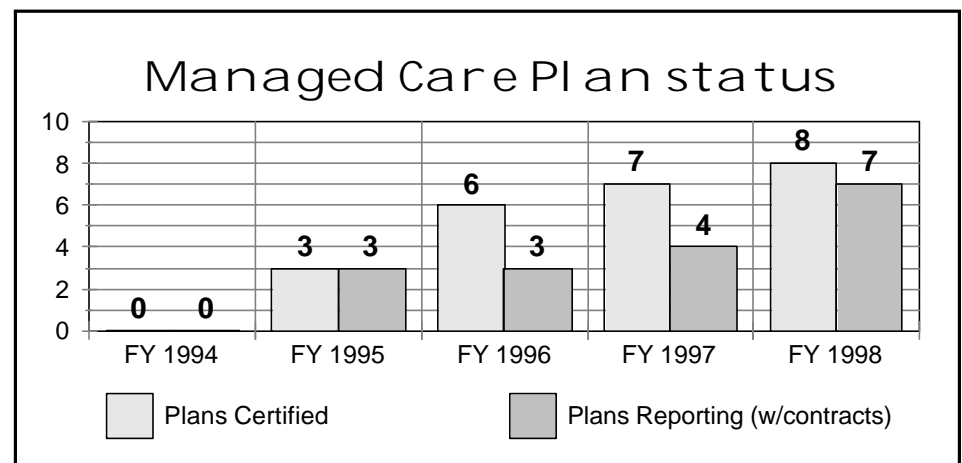
In 1993 the legislature authorized managed care for Workers' Compensation in Nebraska. Managed Care Plans must be certified by the court and once certified, can contract with insurers, self-insured employers and risk management pools. Applications are reviewed to make sure the plan will comply with Section 48-120.02 and Rules 51-61 of the NWCC's Rules of Procedure.

In general, a plan will be certified if:

- it ensures the provision of quality health care services that meet the plan's uniform treatment standards in a manner that is timely, effective, and convenient for the employee;
- it provides appropriate financial incentives to reduce service costs and utilization without sacrificing the quality of care;
- there is satisfactory evidence the plan is financially able to deliver services in accordance with the plan;
- it includes an aggressive case management program, an early return-to-work program, and services promoting workplace health and safety; and
- there are procedures established for peer review, utilization review, and dispute resolution.

Currently there are nine managed care plans certified for workers' compensation in the state. Those plans are identified in the table on the next page. Two applications have been withdrawn, and there are three applications pending. The chart below compares the number of plans certified to the number of plans reporting, since

... Continued on page 4



# Certified Managed Care Plans

Company	Plan Name	Address	Certified	Plan Contact	Phone
Preferred Health Alliance Parent—Mutual of Omaha	WorkComp Care	Mutual of Omaha Plaza Mutual of Omaha, S-3 Omaha, NE 68175	12/15/94	Marilyn Voss	402-351-2004
Methodist Business Health	WorkComp Partners	515 S. 26 St., 4th Floor Omaha, NE 68105	02/16/95	Sue Rohlfis	402-354-6440
HeartlandCOMP Sponsor— Blue Cross/Blue Shield	HeartlandCOMP	7261 Mercy Rd. P.O. Box 2249 Omaha, NE 68103-2249	04/27/95	Ed Haddad	402-398-3841 800-424-7076
MetraComp	MetraComp Managed Care	5130 Eisenhower Blvd. Tampa, FL 33634	08/28/95	Michael P. Read Compliance Coordinator	813-806-2151 fax 813-806-2229
Corvel	CorCare Nebraska	440 Regency Parkway Dr. Suite 147 Omaha, NE 68114	04/15/96	Diane Nemer	800-711-4478 402-393-0400 fax 402-393-0500
Travelers Medical Management Services, Inc.	TMMS Workers' Comp. Managed Care Plan	7101 Vista Drive W. Des Moines, IA 50266	02/12/97	Rondelle Stephenson	800-448-2249 515-223-7604 fax 515-223-7609
Concentra Managed Care Services, Inc.	Concentra MCP+	4820 South 97th Street Omaha, NE 68127	03/21/97	Vince Antonelli	800-806-9977 402-331-6737 fax 402-331-8826
Occupational Health Associates and Risk Administration (OHARA)	OHARA	3800 Technology Circle S 10 Sioux Falls, SD 57106	06/29/98	Jeanine Syverson	800-363-4272 fax 605-361-1106
Intracorp	Intracorp Plan	2 Liberty Place TLP11A 1601 Chestnut St. Philadelphia, PA 19192	08/10/98	John Fleming	215-761-7085 fax 215-761-7105

Nebraska Workers' Compensation Court Spotlight On:

## Medical Services Unit Activities

... Continued From page 2

1993. A "reporting plan" is one with contracts in force for a sufficient amount of time at the end of the fiscal year to be able to provide some data. The charts to the right summarize the number of employers and employees covered by reporting plans, on a yearly basis.

Measuring the success and effectiveness of managed care in general, and individual plans in particular, continues to be of concern. Court staff have participated in discussions with managed care representatives and other regulators on a state and national level in attempts to determine standard data that should be collected to provide meaningful information for plan-to-plan comparisons. No uniform standards have yet been established but the Nebraska Workers' Compensation Court continues to participate in these efforts.

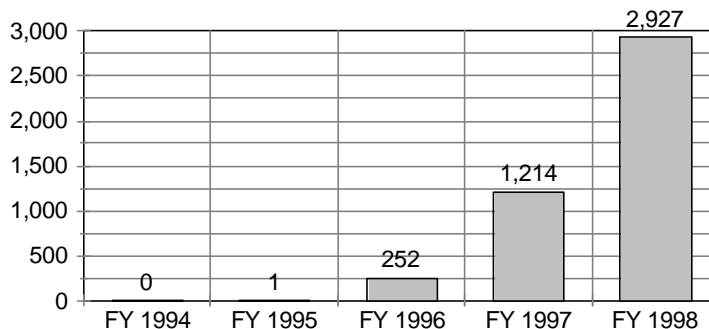
As of June 30, 1998, seven of the certified plans were in a position to file semi-annual reports with the court. Of those seven, one plan had a fairly new contract with one employer but no reported medical savings. The eighth plan was certified on June 28, 1998 and had no contracts in place on which to report. Among other things, plans are asked to report medical expense savings to the court. "Savings" in this case refers to the difference between the amount paid and the maximum allowable amount that would have been paid under the court's Schedule of Medical and Hospital Fees for health care services actually provided injured employees. The chart to the right shows savings in medical fees paid, as reported to the court.

Those directly involved with managed care for workers' compensation recognize that a small part of the benefits of managed care translate into hard dollar savings. It is well known that there is a "sentinel" effect when providers are subject to treatment

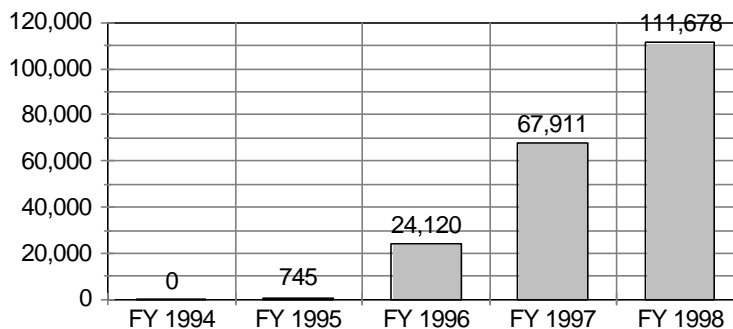
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### Managed Care Plans

#### Number of Employers Covered

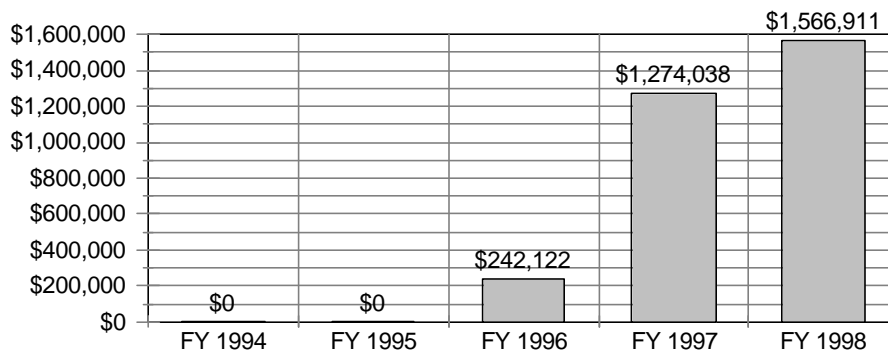


#### Number of Employees Covered



- FY 1994: No plans reporting
- FY 1995: Three plans reporting
- FY 1996: Three plans reporting
- FY 1997: Four plans reporting
- FY 1998: Seven plans reporting

### Reported Savings in Medical Fees Paid



Nebraska Workers' Compensation Court Spotlight On:

## Medical Services Unit Activities

... Continued from page 4

standards, pre-certification, concurrent review programs, and other cost containment measures. There is a savings that results from those providers living "within the terms of the plan" that cannot be measured. The savings that come from alternative treatment plans and treatment requested but not provided are nearly impossible to calculate. It is also difficult to prove savings in lost work days. However, there is agreement among those involved nationally, that managed care can work to reduce costs and provide quality care to injured workers.

### Independent Medical Examiner (IME) System

From time to time during the continuance of disability, Section 48-134 of the Workers' Compensation Act requires an injured employee, if requested by the employer or insurer, to submit to examinations by a physician chosen and paid for by the employer or insurer. If the employee refuses to be examined, some benefits may be lost. LB 757 went further by authorizing the court to develop an independent medical examiner system, now Section 48.134.01. Once a dispute arises regarding the medical condition of the employee or related issues, either side may request a finding by an independent medical examiner. The IME system was designed to give the parties an additional means of resolving disputes outside the judicial process. In fact, when the only disagreement is whether or not medical treatment is reasonable and necessary, no motion or petition can be filed with the court until there has been a report by an Independent Medical Examiner.

The court is required to maintain a list of physicians to serve as Independent Medical Examiners. The physicians may practice in Nebraska or another state. Those that are interested in participating in the program complete an application. The judges of the court review the application and,

if approved, the physician is included on the IME list. The two tables on this page show the locations and specialties of the physicians on the court's list.

Originally, if all parties agreed upon a named examiner, the findings of the IME were binding on the parties and on the court. In 1997, the Nebraska Legislature passed LB 128 which made these findings open to re-

buttal, and the court revised Rule 67 accordingly. In late 1997 the court made a significant change to another IME rule. Under certain circumstances a physician who has completed an assignment as an Independent Medical Examiner may now become the employee's treating physician.

... Continued on page 6

### Independent Medical Examiners

Location of Physician	# of Physicians		
	6-30-96	6-30-97	6-30-98
Omaha Area	123 (35.75%)	119 (35.4%)	126 (37.1%)
Colorado	70 (20.3%)	67 (19.9%)	67 (19.7%)
Lincoln	44 (12.8%)	46 (13.7%)	46 (13.5%)
Kearney, Grand Island, Hastings	19 (5.5%)	21 (6.2%)	19 (5.6%)
Iowa	11 (3.2%)	10 (3%)	11 (3.2%)
Scottsbluff	7 (2%)	8 (2.4%)	7 (2%)
Norfolk	6 (1.7%)	6 (1.8%)	6 (1.7%)
Fremont	6 (1.7%)	6 (1.8%)	3 (0.8%)
North Platte	4 (1.2%)	3 (0.9%)	2 (0.5%)
Broken Bow	4 (1.2%)	4 (1.2%)	4 (1.1%)
Columbus	3 (0.9%)	3 (0.9%)	3 (0.8%)
Holdrege	3 (0.9%)	3 (0.9%)	3 (0.8%)
All Other Nebraska	32 (9%)	30 (8.9%)	32 (9.4%)
All Other States			
(Excluding Colorado, Iowa)	12 (3.5%)	10 (3%)	10 (2.9%)
<b>Total:</b>	<b>344</b>	<b>336</b>	<b>339</b>

### Independent Medical Examiners

Physician Specialty	# of Physicians			
	6-30-95	6-30-96	6-30-97	6-30-98
Chiropractic	61 (17.7%)	64 (18.6%)	64 (19.0%)	64 (18.8%)
Family Practice	48 (13.9%)	50 (14.5%)	47 (14.0%)	47 (13.8%)
Neurology	29 (8.4%)	29 (8.4%)	31 (9.2%)	32 (9.4%)
Orthopedics	25 (7.3%)	29 (8.4%)	30 (8.9%)	29 (8.5%)
Psychiatry	29 (8.4%)	28 (8.1%)	25 (7.4%)	25 (7.3%)
Internal Medicine	N/A	24 (7%)	24 (7.1%)	22 (6.4%)
Ophthalmology	N/A	19 (5.5%)	19 (5.6%)	18 (5.3%)
Physical Medicine, Rehab.	17 (4.9%)	16 (4.7%)	14 (4.2%)	15 (4.4%)
Occupational Medicine	N/A	12 (3.5%)	12 (3.6%)	14 (4.1%)
Ear, Nose, & Throat	N/A	10 (2.9%)	9 (2.7%)	10 (2.9%)
General Surgery	N/A	9 (2.6%)	9 (2.7%)	8 (2.3%)
Podiatry	N/A	8 (2.3%)	8 (2.4%)	8 (2.3%)
Dermatology	N/A	7 (2%)	8 (2.4%)	7 (2%)
Plastic Surgery	N/A	N/A	8 (2.4%)	8 (2.3%)
Dentists	N/A	N/A	5 (1.5%)	5 (1.4%)
All Others	135	39 (11.3%)	23 (6.8%)	27 (7.9%)
<b>Total:</b>	<b>344</b>	<b>344</b>	<b>336</b>	<b>339</b>

Nebraska Workers' Compensation Court Spotlight On:

## Medical Services Unit Activities

... Continued From page 5

The graphics (table and charts) on this and the next page are fairly self-explanatory. They show the number of IME assignments by specialty, the requesting parties, and data on the status of requests.

The nature of the dispute must be one which requires the opinion of a physician and the questions posed to the examiner must relate to the disagreement. The issues most frequently in dispute involve physical restrictions imposed on employment and permanent impairment ratings. Two other closely related questions, often asked, have to do whether or not the employee has reached maximum medical improvement and whether additional treatment is reasonable and necessary.

While other programs initiated as a result of LB 757 have continued to grow and expand, the Independent Medical Examiner program has seen a decline in the number of requests submitted since 1996. Although there is no obvious explanation for this decrease, a Court of Appeals opinion in Kubik vs. Union Ins. Co., 4 Neb. App. 831, 550 N.W. 691 (1996) may have

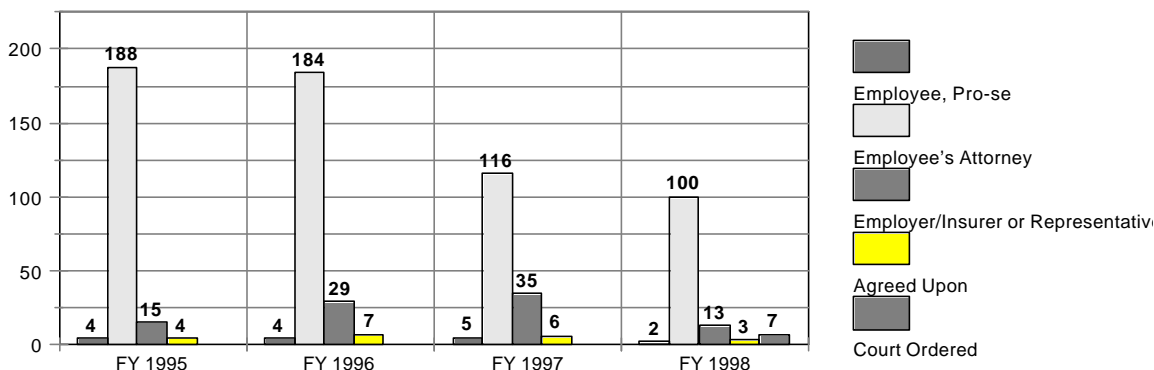
had an impact on the number of requests filed. The court stated there must be a dispute between the parties requiring the opinion of an independent medical examiner in order for an IME to be appointed. A party could no longer request assignment of an IME

to get a second opinion or create a dispute. Also, since parties can now agree on a particular physician and still rebut the findings, it may be there are more "agreed on" examinations taking place that are not being reported to the court. ❖

### Independent Medical Examiners

Physician Specialty	# of Assignments		
	FY 1996	FY 1997	FY 1998
Chiropractic	7 (4%)	0	0
Family Practice	10 (6%)	0	0
Neurology	29 (18%)	17 (18.7%)	21 (26.9%)
Orthopedics	81 (50%)	58 (63.7%)	41 (52.5%)
Psychiatry	5 (3%)	4 (4.4%)	3 (3.8%)
Internal Medicine	1	0	1 (1.2%)
Ophthalmology	0	0	1 (1.2%)
Physical Medicine, Rehab.	14 (8%)	8 (8.8%)	6 (7.6%)
Occupational Medicine	8 (5%)	0	0
Ear, Nose, & Throat	0	0	0
General Surgery	0	2 (2.2%)	1 (1.2%)
Podiatry	0	1 (1.1%)	0
Dermatology	0	0	0
All Others	4 (2.5%)	1 (1.1%)	4 (5.1%)
<b>Total:</b>	<b>159</b>	<b>91</b>	<b>78</b>

### Independent Medical Examiners Requesting Party



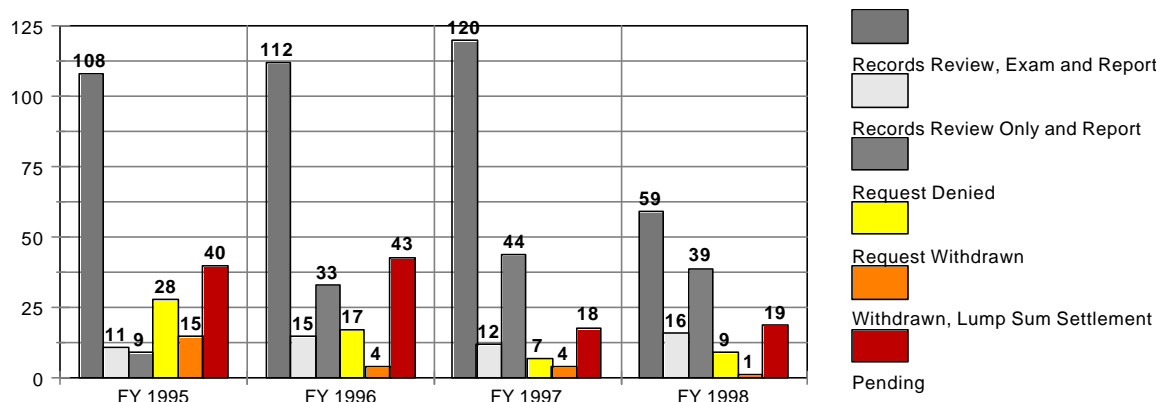
*Court Ordered requests were not tracked prior to 1998.*

Nebraska Workers' Compensation Court Spotlight On:

## Medical Services Unit Activities

... Continued From page 6

### Independent Medical Examiners Request Status



## Compensation Court Approves Amended Rules of Procedure

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- 40 allows for extension of certification of vocational rehabilitation counselors on a probationary status, and requires a 90-day waiting period before reapplication after nonrenewal of certification.
- Rule 41 allows for extension of certification of job placement specialists on a probationary status and requires a 90-day waiting period before reapplication after nonrenewal of certification.
- The vocational rehabilitation fee provisions of Rule 42 are transferred to Rule 44.
- Rule 44 incorporates introductory language from Rule 40, specifying

duties which must be personally performed by the vocational rehabilitation counselor of record. Rule 44 also incorporates the Rule 42 provision regarding payment of fees for the evaluation and development of a vocational rehabilitation plan. In addition, Rule 44 provides for payment of fees for implementation of a plan, provides that vocational rehabilitation counselor fees include expenses for job placement services and expenses for a job placement specialist or interpreter, and provides that a job placement specialist or interpreter be selected by the vocational rehabilitation counselor.

- Rule 45 provides that vocational rehabilitation counselor fees include expenses for an interpreter, and that an interpreter be selected by the vocational rehabilitation counselor.
- In Rule 46, the language contemplating a waiver of vocational rehabilitation benefits in a settlement agreement is eliminated. The rule also requires that a Compensation and Expense Report be filed by the employer, insurer or risk management pool no later than 14 days following payment, requires that pay-

... Continued on page 8

### Reporting Requirements Amended for First Treatment Medical Reports

Section 48-120(3) of the Nebraska Workers' Compensation Act has been amended to eliminate the requirement that a first treatment medical report be furnished to the court. That section now reads "No claim for such medical treatment shall be valid and enforceable unless, within fourteen days following the first treatment, the physician giving such treatment furnishes the employer a report of such injury and treatment on a form prescribed by the compensation court". According to the court's Rule 33, the current Form HCFA - 1500 shall be used to meet this requirement. ❖

## Compensation Court Approves Amended Rules of Procedure

... Continued from Page 7

ment be made within 30 days after approval, and changes the requirements for approval of compromise settlements.

- Rule 47 provides that standard forms developed by the court may be used for a proposed order and application for an order approving lump sum settlement, changes provisions relating to waivers of vocational rehabilitation, requires that a Compensation and Expense Report be filed by the employer, insurer or risk management pool no later 14 days following payment, requires that payment be made within 30 days after approval, and changes the requirements for approval of compromise settlements.
- Rule 49 defines "probation" and further defines "revocation" with reference to vocational rehabilitation.
- In Rule 50, "family physician" is changed to "primary treating physician."
- Rule 52 requires that a managed care plan application provide a list of health care providers, rather than attach the same to each standard contract.
- In Rule 53, the minimum requirements relating to health care services and providers contracted for under a managed care plan are changed, and a restriction on referrals for specialized medical services is eliminated.
- In Rule 55, notice provisions regarding circumstances under which an employee may not be required to receive services from a participating physician under a managed care plan are changed, and provisions relating to selection of a physician where no participating physician is available within mileage restrictions are changed.
- In Rule 56, provisions relating to the circumstances under which a non-

participating physician may be selected as the primary treating physician by the employee are changed.

- In Rule 68, the requirement that annual notification be given to the court administrator in order to receive notice of public hearings is eliminated.

Upon approval of the Rules of Procedure by the Nebraska Supreme Court, the Nebraska Workers' Compensation Court will publish a revised Rule Book and will make the rules available electronically on its Internet web site via Nebrask@ Online at: <http://www.nol.org/workcomp/>.

To order a copy of the Rule Book, fill out and send the court's order form or written request along with check or money order for \$7.00 to the Nebraska Workers' Compensation Court, P. O. Box 98908, Lincoln, NE 68509-8908. Unless otherwise requested, orders will be retained until the revised Rule Book is available. ❖

Spring, 1999

Bulletin



Nebraska Workers' Compensation Court  
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